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C O N F I D E N T I A L SECTION 01 OF 03 ADDIS ABABA 001223

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TAGS: [KDEM](#) [PGOV](#) [EAID](#) [PHUM](#) [KJUS](#) [ET](#)
SUBJECT: DRAFT CIVIL SOCIETY LAW CLAMPS DOWN ON
FOREIGN-FUNDED NGOS

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Classified By: AMBASSADOR DONALD YAMAMOTO. REASONS 1.4 (B) AND (D).

¶1. (SBU) SUMMARY AND ACTION REQUEST: On May 6, in a hastily called "consultative" meeting, Minister of Justice Assefa Kessito outlined for a group of several hundred NGO leaders the many changes outlined in the Ethiopian Government's (GoE) draft law governing civil society released on May 2. In this very tense meeting, international and domestic NGO leaders were enraged with many of the draft's proposed articles. Most noteworthy is a new definition of NGOs receiving more than 10 percent of their funding from foreign sources as "foreign charities," and the subsequent restriction on them from operating in a number of areas, including the promotion of human rights, democracy, justice, law enforcement, and conflict resolution. Beyond this, the new law would form an agency responsible for registering and monitoring NGO activity, which would have wide-spread power, including the ability to fire or imprison NGO directors, monitor who provides money to which NGO, as well as maintain lists of NGO membership. The agency's director will answer directly to the Prime Minister. Minister Kessito and other GoE officials at the meeting were unapologetic for the contents of the draft law. Though they did not specify a timeline for submission of the draft to the Council of Ministers, which precedes submission to Parliament for "debate" and passage, they did offer to consider issues submitted in writing by civil society leaders as long as those comments are received by May ¶12. This may simply be lip service to NGO concerns however, as the GoE recent record of fast tracking politically contentious bills suggests it will likely attempt to ram this legislation through before the Parliamentary recess in June. If passed, this would shut down all NGOs working in promoting human rights and democracy, as well many working in other related areas, as most receive majority foreign funding. It would effectively end a great deal of USG and other donor programming in these and other critical areas. Post will e-mail the draft proclamation and key points to AF/E and DRL. Post strongly encourages AF, DRL, and USAID/AFR to call in Ethiopian Ambassador Samuel Assefa to express collective USG concern over the impacts of this bill. Ambassador raised this issue with State Minister of Foreign Affairs Takeda Alemu on May 7, and will raise again with Prime Minister Meles together with the British and French Ambassadors. END SUMMARY.

THE LONG AWAITED DRAFT LAW RELEASED...

¶2. (SBU) After more than a decade considering institution of a new civil society law governing NGOs in Ethiopia, a newly-composed draft was leaked on websites earlier this year. Though the GoE was reportedly upset at the leak, the draft had not been moved forward until late last week. Then, in a surprise move, on May 2 the Ministry of Justice (MoJ) forwarded a revised draft to the leaders of approximately 300 NGOs (of the approximately 3,000 operational in Ethiopia) which have been registered in Ethiopia for more than five years. (NOTE: No explanation was given on the limitation on invitees. END NOTE.) This was accompanied by an invitation to a consultative meeting to be held on May 6, leaving little time (Friday, May 2 and Monday, May 5 were Ethiopian holidays) for review of the 53 page draft.

...TO NO FANFARE

¶3. (SBU) The May 6 "consultative meeting," attended by several USAID-funded NGOs, was reportedly very tense. NGO leaders were outraged at a draft law that had gone from bad (the leaked version) to worse (the official version distributed by the GoE). Participants outlined several issues in the draft that would greatly restrict civil society participation in Ethiopia. The most notable, which had not been on the leaked draft, is the definition and restriction of NGOs receiving foreign funding. The draft law defines those NGOs receiving more than 10 percent of their funding from foreign sources as "foreign charities." Further, these NGOs are prohibited from working in the following areas:

-- The advancement of human and democratic rights, conflict resolution or reconciliation or the promotion of harmony or

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equality and diversity amongst nations, nationalities and peoples of different religious groups;
-- The advancement of citizenship or community development;
-- The promotion of sustainable development of the nations, nationalities and peoples of Ethiopia; and
-- The promotion of efficiency of the justice and law enforcement services.

As nearly all NGOs working in these areas in Ethiopia are primarily foreign funded, with passage of the law as-is, many NGOs would be shut down or have their work restricted in country, including many USG-funded NGOs such as Mercy Corps, PACT, Ethiopian Human Rights Council (EHRCO), The Carter Center, and Prison Fellowship (i.e. the Ethiopian Elders). While other areas are still open to foreign-funded NGOs, such as health, education, arts, culture and amateur sports, the above areas would likely be broadly interpreted to restrict many NGOs working in a number of areas.

¶4. (SBU) Other significant areas raised at the meeting in which the draft law restricts the work of NGOs in Ethiopia include:

- The creation of an "agency" tasked with registering and monitoring NGOs. The agency head is appointed by, and answers only to, the Prime Minister, rather than Parliament;
- The agency is given broad powers to appoint or fire directors within NGOs, close NGOs, seize property and enter NGO premises) all without court order;
- The draft outlines numerous violations for which NGO directors, board members and employees can be imprisoned and/or fined. Appeals can only be made to the Ministry of Justice and only for cassation purposes (i.e. errors of law, not fact). Foreign-funded NGOs do not have the right of appeal.
- NGOs must file lists of members, identity of donors, minutes of all board meetings and all financial records to the agency;
- Restrictions on hiring of expatriates is greatly increased; and
- The draft considers professional and religious

organizations as NGOs, subject to the same restrictions.

CHANGES NOT LIKELY TO BE CONSIDERED

15. (SBU) Minister Kessito and other MoJ officials present at the meeting were generally unapologetic for the content and tone of the draft. They repeatedly gave very limited or poor explanations for their reasoning on contentious points, simply saying the fundamentals of the law are solid, based on the NGO law of Singapore. As an example, Minister Kessito, in response to the outcry in labeling NGOs as foreign, said simply that they are not trying to label the NGOs and NGO staff as non-Ethiopian, simply to identify them as foreign-funded (and thus, not at all responding to material concerns). At the conclusion of the meeting, after repeatedly saying that there would be no more public consultation on the law, Minister Kessito relented saying that a group of civil society representatives can submit concerns in writing by May 12, which will be considered by the MoJ before submission to the Council of Ministers for final approval and submission to Parliament. However, credible legal sources indicate that the MoJ's mind is made up on the draft and will likely submit the existing document with few changes to the Council of Ministers for expeditious endorsement and passage through Parliament.

COMMENT AND ACTION REQUEST: NEW LAW WILL KILL ALL D&G PROGRAMMING

16. (C) While the long anticipated draft civil society law was expected by many to be highly restrictive, particularly given the role of civil society in the post-2005 election controversy, none anticipated the draconian nature of this current draft. The leaked version from earlier this year shed some insight into ways in which the GoE was seeking to limit activity by NGOs, giving broad and expansive powers to a highly-placed "agency" which can intrude on NGO activities and dismiss and imprison NGO directors for numerous dubious

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causes, all the while providing limited judicial recourse. What was not anticipated, however, was the outright prohibition on foreign funded NGOs from working in key sectors of interest to the international community, including democracy, human rights, conflict resolution, and other important areas. Passage of the draft as is will certainly close dozens of very prominent NGOs and limit the activity of many others, including Mercy Corps, PACT and the Carter Center. Millions of dollars in USG and other donor-funded programming would be halted. Credible legal sources indicate that the GoE likely will act quickly on this legislation, taking very few complaints of the NGO community into account before submitting to the PM's Council of Ministers and then Parliament.

17. (SBU) Post will immediately begin to call on GoE officials to raise concerns about the draft law and seek to stop the law from progressing further. We will also cooperate with other major donors, who are also understandably very concerned about this draft, in coordinating messages and meetings with senior GoE officials. Ambassador, together with Poloff and DATT raised this issue in strong terms with State Minister of Foreign Affairs Tekeda Alemu on May 7, noting that the new NGO law will affect all USG programming in country. The unintended consequences of the law could negatively impact on development and other programs. Ambassador will also see Prime Minister Meles, together with the British and French Ambassadors, to discuss this subject. Post will forward the text of the draft bill and a set of key concerns to AF/E, DRL, and USAID/AFR. Post strongly requests that AF, DRL, and USAID/AFR call in Ethiopian Ambassador Samuel Assefa this week to convey USG concerns with this

draft bill and the closure of political space for civil
society that it reflects. End comment and action request.
YAMAMOTO